

REMARKS

The Office Action mailed November 29, 2002 has been received and reviewed. By this response, Applicants have amended claims 1 and 8. Applicants have canceled claims 2 and 29, without prejudice. Applicants have added new claim 30. In view of the following remarks, Applicants respectfully submit that the application, as amended, is in condition for allowance.

A. Allowable Subject Matter.

The Examiner indicated that claims 11-28 are allowed.

The Examiner also indicated that claim 29 contained allowable subject matter and would be allowed if re-written into independent form. Applicants have canceled claim 29 and added new claim 30. New claim 30 is original claim 29 incorporating the limitations of original claims 8-10. It is respectfully submitted that new claim 30 is allowable.

Applicants reviewed the reasons for allowance with respect to claims 11-12, 13-14, 15-21, 22-23, 24-28, and 29. Applicants submit that there are reasons in addition to those cited by the Examiner for allowance. The claims as a whole are not disclosed or suggested by the prior art of record.

B. Rejected Claims.

The Examiner rejected claims 1-6 and 8-10 under 35 U.S.C. §103 as unpatentable over U.S. patent number 5,946,440 to Puetz in view of U.S. patent number 5,240,209 to Kutsch and U.S. patent number 6,044,194 to Meyerhoefer. Applicants respectfully disagree with these rejections.

In order to better clarify the inventions, Applicants have amended independent claims 1 and 8. In each of independent claims 1 and 8, the claims were amended to clarify that all of the perimeter of the cable entry aperture is circumscribed by a flared cable guide surface. This is

shown in, for example, FIGS. 2, 5 and 6. As can be seen from these FIGS., the cover member defines this cable entry aperture and includes the flared guide surface, such that optical fiber cables can extend in all directions from the cable entry aperture and be protected from bending too much. The combination of limitations recited in claims 1 and 8 are not disclosed or suggested by the prior art. There is no legal basis for concluding that an invention would have been obvious "solely because it is a combination of elements that were known in the art at the time of the invention." Smith Indus. Mod. Sys. v. Vital Signs, Inc., 183 F.3d 1347, 1356 (Fed. Cir. 1999). It is legal error to "use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." Ecolochem, Inc. v. Southern Edison Co., 227 F.3d 1361, 1371 (Fed. Cir. 2000). Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence of motivation to combine the references. Ecolochem, 227 F.3d at 1372.

It appears that the references cited by the Examiner, Puetz '440, Kutsch '209, and Meyerhoefer '194, were used in hindsight to reconstruct the inventions claimed in claim 1 and claim 8. If given a fair, reasonable assessment, it would not have been obvious to a person of ordinary skill in the art to have modified Puetz '440, in view of Kutsch '209; and then modify the Puetz/Kutsch result with the teachings of Meyerhoefer '194. Further, the Puetz/Kutsch/Meyerhoefer device is again modified (with respect to the limitations of original claim 2) to make the flared edges extend around the entire perimeter. There is no reasonable suggestion from the prior art to make all of these modifications to all of these teachings, other than the teachings of Applicants' very own disclosure. It appears that hindsight reconstruction was used to pick and choose among the prior art disclosures; this is legal error.

Thus, Applicants respectfully submit that independent claims 1 and 8 are allowable over Puetz '440, Kutsch '209, Meyerhoefer '194, and the other prior art of record. Claims 3-6 depend upon claim 1; and claims 9 and 10 depend upon claim 8. It is respectfully submitted that each of these dependent claims is also allowable for at least these same reasons.

C. Summary.

In summary, claims 1, 3-6, 8-28, and 30 are pending. Claims 11-28 have already been allowed. Independent claims 1 and 8 were amended to further clarify the inventions.


In view of the foregoing amendments and remarks, Applicants respectfully submit that the application, as amended, is in condition for allowance. Applicants request reconsideration, reexamination, and a Notice of Allowance.

If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

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